

CHATTEL MORTGAGE

(Railroad Equipment Security Agreement)

THIS CHATTEL MORTGAGE dated as of July 15, 1972, from UNITED STATES RAILWAY LEASING COMPANY, an Illinois corporation with its principal offices at 2200 East Devon Avenue, Des Plaines, Illinois (the "Mortgagor") to MARINE MIDLAND BANK - NEW YORK, a banking association chartered under the laws of the State of New York, with its principal offices at 140 Broadway, New York, New York (the "Mortgagee").

W I T N E S S E T H

WHEREAS, the Mortgagor is justly indebted to the Mortgagee in an aggregate principal amount not to exceed \$9,500,000 as evidenced by certain Interim Notes or one Definitive Note of the Mortgagor (each of which is referred to as a "Note") payable to the order of the Mortgagee, each of which are expressed to be issued and secured by this Chattel Mortgage, and

WHEREAS, said Note and the principal and interest thereon and any and all extensions or renewals thereof in whole or in part and all other sums at any time due or owing from or required to be paid by the Mortgagor under the terms hereof or of said Note are hereinafter referred to as "indebtedness hereby secured";

NOW, THEREFORE, the Mortgagor, to secure the payment of all the indebtedness hereby secured and the performance and observance of all the covenants and agreements in said Note or in this Mortgage provided to be performed or observed by the Mortgagor, does hereby grant, bargain, sell, convey, confirm, transfer, mortgage and set over unto the Mortgagee, its successors and assigns, forever, and does hereby grant to the Mortgagee a security interest in, all and singular the following described properties, rights and interests, and all of the estate, right, title and interest of the Mortgagor therein, whether now owned or hereafter acquired (all of which property, rights and interests hereby transferred, conveyed and mortgaged or intended so to be is hereinafter collectively referred to as the "mortgaged property") that is to say:

DIVISION I

Five Hundred (500) 70-Ton capacity box cars, such cars bearing, respectively, the following car numbers, being the equipment leased and delivered to George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, as Trustees of the property of the Penn Central Transportation Company, under a Lease hereinafter described:

500 Cars bearing:

PC 229000 to PC 229499, Inclusive

6635-a

AUG 23 1972

145

DIVISION II

All accessories, equipment, parts and appurtenances appertaining or attached to any of the equipment hereinabove described whether now owned or hereafter acquired, and all substitutions, renewals and replacements of and additions, improvements, accessions and accumulations to any and all of said equipment, including all additions thereto which are now or shall hereafter be incorporated therein, together with all the rents, issues, income, profits and avails thereof.

SUBJECT, HOWEVER, to all the rights, powers, title and interest of George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, as Trustees of the property of the Penn Central Transportation Company (hereinafter termed "Lessee") under that certain Lease covering the equipment (hereinafter termed the "Lease") by the Mortgagor as Lessor and Lessee dated June 12, 1972, bearing ICC Recordation No. 6635 and any party claiming by or through Lessee.

TO HAVE AND TO HOLD said mortgaged property unto the Mortgagee, its successors and assigns, forever, for the uses and purposes herein set forth; provided, however, that if the Mortgagor performs the covenants herein and pays to the Mortgagee, its successors or assigns, the full amount of both principal and interest on the indebtedness hereby secured then this instrument shall be and become void and of no further force and effect; otherwise this Mortgage to remain in full force and effect.

SECTION 1. COVENANTS AND WARRANTIES:

1.1. The Mortgagor is the owner and is lawfully seized and possessed of the mortgaged property and has good right, full power and authority to convey, transfer and mortgage the same to the Mortgagee; and such property is free from any and all liens and encumbrances prior to or on parity with the lien of this Chattel Mortgage (excepting only any lien for ad valorem taxes not now in default, and the right, title and interest of Lessee under said Lease) and the Mortgagor will warrant and defend the title thereto against all claims and demands whatsoever (except those arising under the Lease).

1.2. The Mortgagor will do, execute, acknowledge, and deliver all and every further acts, deeds, conveyances, transfer and assurances necessary or proper for the better assuring, conveying, assigning and conforming unto the Mortgagee all of the mortgaged property, or property intended so to be, whether now owned or hereafter acquired.

1.3. The Mortgagor will promptly pay the indebtedness hereby secured as and when the same or any part thereof becomes due (whether by lapse of time, declaration, demand or otherwise).

1.4. Subject to the rights of the Lessee, the Mortgagor will cause the mortgaged property and each and every part thereof to be maintained, preserved and kept in safe and good repair, working order and condition, and will from time to time

make or cause to be made all necessary and proper repairs, renewals, and replacements so that the value and efficiency of such property shall not be impaired.

1.5. The Mortgagor will from time to time duly pay and discharge or cause to be paid and discharged all taxes, assessments and governmental charges lawfully imposed upon or against the mortgaged property or any part thereof, and will not suffer to exist any mechanics', laborers', statutory or other lien on the mortgaged property or any part thereof; provided, however that nothing herein contained shall be deemed to require the Mortgagor to pay any tax, assessment, charge or lien, or any claim or demand of mechanics, laborers or others, prior to the due date thereof, or to require the Mortgagor to pay or discharge any tax, assessment, lien, claim or charge (whether or not due or delinquent) the validity or amount of which is being contested in good faith by appropriate proceedings; provided, however, that the Mortgagor will pay or discharge such tax, assessments, lien, claim, or charge if seizure of the mortgaged property is imminent.

1.6. The Mortgagor will at its own expense duly comply with and perform all the covenants and obligations of the Mortgagor under the Lease and will at its own expense seek to cause the Lessee to comply with and observe all the terms and conditions of the Lease and, without limiting the foregoing, at the request of the Mortgagee, the Mortgagor will at its own expense take such action with respect to the enforcement of the Lease, and the duties and obligations of the Lessee thereunder, as the Mortgagee may from time to time direct; provided that the Mortgagor shall not have any right to settle, adjust, compound or compromise any claim against the Lessee under the Lease without the prior written consent of the Mortgagee.

1.7. The Mortgagor shall not, without the prior consent of the Mortgagee, which consent will not be unreasonably withheld or delayed, take any action to terminate, modify or accept a surrender of the Lease or consent to the creation or existence of any mortgage, security interest, or other lien on the Lease, the rentals due thereunder, or any of the mortgaged property.

1.8. So long as any indebtedness under the Note remains unpaid, the Mortgagor will deliver or cause to be delivered to Mortgagee, as soon as available, and in any event within 120 days after the end of each fiscal year, copies, in comparative form with the preceding fiscal year, of the consolidated balance sheet of U.S. Railway Mfg. Co., Mortgagor, and United States Railway Equipment Co. as at the end of such fiscal year, and of the consolidated income statements of all of such companies for such fiscal year. Such consolidated balance sheet and consolidated income statement shall be prepared in reasonable detail, in accordance with generally accepted accounting principles and shall be accompanied by a report and opinion of independent certified public accountants of recognized standing selected by the aforementioned companies, which report and opinion shall be based upon an examination made in accordance with generally accepted auditing standards. Together

with each delivery of the financial statements hereinabove required, Mortgagor will deliver to Mortgagee an officer's certificate stating that there exists no default under this Mortgage, the Assignments, the Note, or if such default exists, stating the nature thereof, the period of existence thereof and what action if any the Mortgagor proposes to take with respect thereto. If the Mortgagor or the Lessee at any time shall insure the mortgaged property against loss due to any risk, the Mortgagor shall cause the Mortgagee to be named as loss payee in any policy or policies providing such insurance.

1.9. If the Mortgagor shall fail to observe and perform any of the covenants set forth in this Section 1, the Mortgagee may, but shall not be obligated to, advance sums to and may perform the same, and all advances made by the Mortgagee shall with interest thereon at 9% per annum, constitute part of the indebtedness hereby secured and shall be payable forthwith; but no such act or expenditure by the Mortgagee shall relieve the Mortgagor from the consequence of any default.

1.10 It shall be lawful for the Mortgagor to retain possession of the mortgaged property, and at its own expense to keep and use the same, until an event of default shall occur hereunder as hereinafter defined.

1.11 Mortgagor shall from time to time do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by Mortgagee to do or execute for the purpose of fully carrying out and effectuating this Mortgage and the intent hereof.

SECTION 2. APPLICATION OF PROCEEDS OF LEASE AND CERTAIN PREPAYMENTS:

2.1. The Mortgagor has executed and delivered to Mortgagee an Assignment of Lease in the form and text attached hereto as Schedule A, dated on or prior to the date hereof ("Assignment") with respect to the Lease, under which the Mortgagor assigns or transfers unto Mortgagee, its successors and assigns, as further security for the indebtedness hereby secured, the Lease and all rentals and other sums due and to become due thereunder, provided that unless and until an event of default under Section 3 hereof has occurred and is continuing, all rentals and other sums from time to time payable on account of the Lease shall be paid to and be received by Mortgagor. If an event of default under Section 3 hereof has occurred and is continuing, all rentals and other sums from time to time payable on the Lease shall be paid to and received by the Mortgagee pursuant to the Assignment and shall be applied in the manner set forth in Section 3.3 hereof.

2.2. Without regard to whether an event of default under Section 3 hereof has occurred and is continuing, Mortgagor agrees that it will pay over to Mortgagee all monies ("settlement monies") paid to it pursuant to a Lease as settlement for the loss, theft, destruction, or damage beyond repair of any

car or cars leased thereunder as follows: commencing with the first settlement from and after the date hereof relating to any car covered by a Lease, Mortgagor will retain and accumulate the monies received from a settlement or succeeding settlements under any or all Leases until such time as the Mortgagor has accumulated an amount in excess of \$50,000.00 at which time all such settlement monies then held by the Mortgagor will be applied against the indebtedness due under the Note as hereinafter provided. The foregoing procedure for accumulating and paying over settlement monies in excess of \$50,000.00 shall be repeated from time to time until all indebtedness due under the Note has been paid in full. Mortgagee shall apply each payment of settlement monies on the next succeeding principal installment payment date to the prepayment of principal of the Note. Such prepayment of principal shall be applied in inverse order of principal installments coming due on the Note. The Mortgagor shall promptly transmit to Mortgagee any notice or information it receives concerning loss, theft, destruction or damage beyond repair to cars covered by a Lease requiring settlement payment under such Lease. With respect to all cars for which Mortgagee has received all settlement monies paid to the Mortgagor as required by a lease, Mortgagee shall execute and deliver to Mortgagor, if requested, a release of the lien of this Mortgage with respect to such car or cars.

SECTION 3. DEFAULTS AND OTHER PROVISIONS

- 3.1. The term "event of default" for the purpose hereof shall mean any one or more of the following:
- (a) Default for a period of ten days in the payment of interest on the Note;
 - (b) Default for a period of ten days in the payment of any installment of principal or of the Note at maturity, whether by acceleration or otherwise;
 - (c) Default in the due observance or performance of any other covenant, condition or agreement required to be observed and performed by the Mortgagor in the Note, the Assignment, or this Mortgage or by any Guarantor under any Guaranty of the Note and continuance of such default for a period of fifteen (15) days after notice thereof has been given to Mortgagor or such Guarantor, as the case may be.
 - (d) Any representation or warranty made by the Mortgagor to the Mortgagee in writing herein or in the Assignment or in any statement or certificate furnished by the Mortgagor to the Mortgagee or in connection with the making of any loan or loans evidenced by the Note, proves untrue in any material respect as of the date of the issuance or making thereof;

- (e) The Mortgagor or a Guarantor under any guaranty of the Note becomes insolvent or bankrupt or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors or applies or consents to the appointment of a trustee or receiver for the Mortgagor or for the major part of its property,
- (f) A trustee or receiver is appointed for the Mortgagor or a Guarantor under any guaranty of the Note or for the major part of the property of any of such parties;
- (g) Bankruptcy, reorganization, arrangement, insolvency, or liquidation proceedings, or other proceedings for relief under any bankruptcy law or similar law for the relief of debtors, are instituted by or against the Mortgagor or a Guarantor under any guaranty of the Note.

3.2. When any such event of default has happened and is continuing, the Mortgagee may exercise any one or more or all, and in any order, of the remedies hereinafter set forth, it being expressly understood that no remedy herein conferred is intended to be exclusive of any other remedy or remedies; but each and every remedy shall be cumulative and shall be in addition to every other remedy given herein or now or hereafter existing at law or in equity or by statute:

- (a) The Mortgagee may, upon the occurrence of a default under Paragraph 3.1.(a), (b), (c), (d) or (f), by notice in writing to the Mortgagor, declare the entire unpaid balance of said Note to be immediately due and payable, and thereupon all such unpaid balance, together with all accrued interest thereon, shall be and become immediately due and payable; provided, however, that upon the occurrence of a default under Paragraph 3.1. (e) or (g), the entire unpaid balance of the Note, together with all accrued interest thereon shall be and become immediately due and payable without notice by Mortgagee;
- (b) Subject always to then existing rights, if any, of the Lessee under the Lease, the Mortgagee, personally or by agents or attorneys, shall have the right (subject to compliance with any applicable mandatory legal requirements) to take immediate possession of the mortgaged property, or any portion thereof, and for that purpose may pursue the same wherever it may be found, and may enter any of the premises of the Mortgagor, with or without notice, demand, process of law or

legal procedure, and search for, take possession of, remove, keep and store the same, or use and operate the same until sold; it being understood, without limiting the foregoing, that the Mortgagee may, and is hereby given the right and authority to, keep and store said mortgaged property, or any part thereof, on the premises of the Mortgagor, and that the Mortgagee shall not thereby be deemed to have surrendered, or to have failed to take, possession of such mortgaged property;

- (c) Subject always to then existing rights, if any, of the Lessee under the Lease, the Mortgagee may, if at the time such action may be lawful and always subject to compliance with any mandatory legal requirements, either with or without taking possession, and either before or after taking possession, and without instituting any legal proceedings whatsoever, and having first given notice of such sale by registered mail to the Mortgagor once at least 10 days prior to the date of such sale, and any other notice which may be required by law, sell and dispose of said mortgaged property, or any part thereof, at public auction or private sale to the highest bidder, in one lot as an entirety or in separate lots, and either for cash or on credit and on such terms as the Mortgagee may determine, and at any place (whether or not it be the location of the mortgaged property or any part thereof) designated in the notice above referred to. Any such sale or sales may be adjourned from time to time by announcement at the time and place appointed for such sale or sales, or for any such adjourned sale or sales, without further published notice; and the Mortgagee or the holder or holders of the Note, or of any interest therein, may bid and become the purchaser at any such sale;
- (d) The Mortgagee may proceed to protect and enforce this Mortgage and the Note by suit or suits or proceedings in equity, at law or in pending bankruptcy, and whether for the specific performance of any covenant or agreement herein contained or in execution or aid of any power herein granted, or for foreclosure hereunder, or for the appointment of a receiver or receivers for the mortgaged property or any part thereof, or for the recovery of judgment for the indebtedness hereby secured, or for the enforcement of any other proper legal or equitable remedy available under applicable law;
- (e) The Mortgagee may proceed to exercise in respect of the Lease and the property covered thereby and the duties, obligations and liabilities of the

Lessee thereunder, all rights, privileges and remedies in said Lease or by applicable law permitted or provided to be exercised by the Mortgagor, and may exercise all such rights and remedies either in the name of the Mortgagee or in the name of the Mortgagor for the use and benefit of the Mortgagee. Without limiting any of the other terms of this Mortgage or of the Assignment, it is acknowledged and agreed by the Mortgagor that the Assignment shall be deemed to give and assign to and vest in the Mortgagee all the rights and powers in this Paragraph (e) provided for;

- (f) The Mortgagee may sell the rentals reserved under the Lease, and all right, title and interest of the Mortgagee as assignee thereof, at public auction to the highest bidder and either for cash or on credit, the Mortgagee to give the Mortgagor 10 days' prior written notice of the time and place of holding any such sale, and provided always that the Mortgagee shall also comply with any applicable mandatory legal requirements in connection with such sale.

3.3. If the Mortgagee shall be receiving or shall have received monies pursuant to the Assignment, it may from time to time, but no less frequently than on the next succeeding principal installment payment date, apply such monies against the next succeeding installment of principal and interest on the Note, or if proceedings have been commenced for the sale of the mortgaged property then all sums so received and the purchase money proceeds and avails of any sale of the mortgaged property or any part thereof, and the proceeds and avails of any other remedy hereunder, or other realization of the security hereby given, and the proceeds of any sale pursuant to subparagraph (f) of Section 3.2 hereof, shall be applied:

- (a) First, to the payment of the cost and expenses of the sale, proceeding or other realization, including all costs and expenses and charges for pursuing, searching for, taking, removing, keeping, storing, advertising and selling such mortgaged property or, as the case may be, said rentals, the reasonable fees and expenses of the attorneys and agents of the Mortgagee in connection therewith, and to the payment of all taxes, assessments, or similar liens on the mortgaged property which may at that time be superior to the lien of this Mortgage (unless such sale or other realization is subject to any such superior lien);
- (b) Second, to the payment of all advances made hereunder by the Mortgagee pursuant to Section 1.9 hereof, together with all interest therefor;

- (c) Third, to the payment of the whole amount remaining unpaid on the Note, both for principal and interest, and to the payment of any other indebtedness of the Mortgagor hereunder or secured hereby, so far as such proceeds may reach;
- (d) Fourth, to the payment of the surplus, if any, to the Mortgagor or to whomsoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

The Mortgagee shall not be liable for interest on any sums held by it pursuant to this Paragraph 3.3. If there be a deficiency the Mortgagor shall remain liable therefor and shall forthwith pay the amount of any such deficiency to the Mortgagee.

3.4. Any sale or sales pursuant to the provisions hereof, whether under the power of sale granted hereby or pursuant to any legal proceedings, shall operate to divest the Mortgagor of all right, title, interest, claim and demand whatsoever, either at law or in equity, of, in and to the mortgaged property so sold, and shall be free and clear of any and all rights of redemption by, through or under the Mortgagor, the Mortgagor hereby covenanting and agreeing that it will not at any time insist upon or plead, or take the benefit or advantage of or from, any law now or hereafter in force providing for a valuation of appraisement of the mortgaged property prior to any sale or sales thereof or providing for any right to redeem the mortgaged property or any part thereof. The receipt by the Mortgagee, or by any person authorized under any judicial proceeding to make any such sale, shall be a sufficient discharge to any purchaser of the mortgaged property, or of any part thereof, sold as aforesaid; and no such purchaser shall be bound to see to the application of such purchase money, or be bound to inquire as to the authorization, necessity or propriety of any such sale. In the event at any such sale the holder or holders of the Note is or are the successful purchaser or purchasers, such holder or holders of said Note shall be entitled, for the purpose of making settlement or payment, to use and apply said Note by crediting thereon the amount apportionable and applicable thereto out of the net proceeds of such sale.

SECTION 4. MISCELLANEOUS

4.1. Any notice provided for hereby or by any applicable law to be given to the Mortgagor shall be in writing and shall be deemed to have been given when delivered personally or when deposited in the United States mail, registered, postage prepaid, addressed to the Mortgagor at its address set forth at the beginning of this Mortgage.

4.2. The failure or delay of the Mortgagee to insist in any one or more instances upon the performance of any of the terms, covenants or conditions of this Mortgage, or to

exercise any right, remedy or privilege herein conferred, shall not impair, or be construed as thereafter waiving any such covenants, remedies, conditions or provisions; but every such term, condition and covenant shall continue and remain in full force and effect. Nor shall the giving, taking or enforcement of any other or additional security, collateral or guaranty for the payment of the indebtedness secured under this Mortgage operate to prejudice, waive or affect the security of this Mortgage or any rights, powers or remedies hereunder; nor shall the Mortgagee be required to first look to, enforce or exhaust such other or additional security, collateral or guaranties.

4.3. The unenforceability or invalidity of any provision or provisions of this Mortgage shall not render any other provision or provisions herein contained unenforceable or invalid.

4.4. All the covenants, stipulations, promises, undertakings and agreements herein contained by or on behalf of the Mortgagor shall bind and inure to the benefit of its successors and assigns, whether so expressed or not.

4.5. Mortgagor agrees to pay all costs and expenses in connection with this transaction and the preparation, execution, delivery and recording of any documents in connection therewith.

4.6. No modification or waiver of any provisions of this Mortgage or any Guaranty of the Note, nor consent to any departure therefrom shall in any event be effective unless the same shall be in writing and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the Mortgagor in any case shall entitle it to any other or further notice or demand on account of the continuance of the same circumstances.

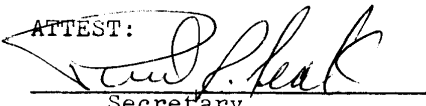
IN WITNESS WHEREOF, the Mortgagor has caused its corporate name to be hereunto subscribed and its corporate seal to be hereunto affixed by its officers thereunto duly authorized all as of the day and year first above written.

UNITED STATES RAILWAY LEASING COMPANY

(Corporate Seal)

By: 

Its President

ATTEST: 

Secretary

ACCEPTED:

MARINE MIDLAND BANK - NEW YORK

By: 

Its Commercial Banking Officer

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 10th day of August, 1972, before me personally appeared John C. Felten and Paul Leah, to me personally known, who being by me duly sworn, say that they are, respectively, the _____ President and Secretary of UNITED STATES RAILWAY LEASING COMPANY, an Illinois corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Tom Mason
Notary Public

(Notarial Seal)

My Commission expires February 4, 1976.

STATE OF NEW YORK)
) SS
CITY OF NEW YORK)

On this 17th day of August, 1972, before me personally appeared Robert B. Meyer to me personally known, who being by me duly sworn, says that he is the Commercial Banking Officer of MARINE MIDLAND BANK - NEW YORK, a banking association chartered under the laws of the State of New York, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Margaret M. Bracken
Notary Public

(Notarial Seal)

My Commission expires March 30, 1973.